

Application No.: 10/826,869  
Final Office Action Dated: April 4, 2006  
Response to Final Office Action with RCE Dated: May 5, 2006

**AMENDMENTS TO THE DRAWINGS**

Please replace Figs. 2 and 6 with the attached Replacement Figs. 2 and 6.

### **REMARKS**

Claims 1-15, 41 and 42 were pending prior to filing this Response. Claim 1 is being amended herein. Claim 41 is being canceled. Therefore claims 1-15 and 42 remain for consideration.

The drawings are objected to under 37 CFR 1.83(a). The Examiner requires that the valve mechanism be shown or the feature canceled from the claims. In response to the Examiner's directive, proposed corrected drawings are being submitted showing the valve mechanism. Accordingly, it is respectfully submitted that the objection to the drawings is overcome.

Claims 1-7, 10-15, 41 and 42 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Beane et al. (U.S. Pat. Appl. Publ. No. 2002/0022762). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Beane et al. is directed to a lens warming and cleaning device for use with an optical surgical instrument. The device includes a heat-conducting tube sized and shaped to receive the lens portion of the instrument, a heating element thermally coupled to an exterior of the tube, and a cleaning member disposed within the tube. The cleaning member is disposed such that when the lens portion of the instrument is inserted into the tube, the lens portion contacts the cleaning member.

Beane et al. does not teach or suggest a sterile apparatus to protect endoscopes wherein the apparatus includes a self-sealing mechanism disposed within a canal and configured to allow for an endoscope to enter the canal and contact defogging material and to prevent the defogging material from spilling out of the canal, as is generally recited in independent claim 1 and incorporated in dependent claims 2-7, 10-15 and 42. This is not surprising since Beane et al. teaches a saline solution retained in a sponge.

For an anticipation rejection to be appropriate, each and every element or limitation in a rejected claim must be shown in a single prior art reference used in

the claim rejection. Because Beane et al. does not teach or suggest a sterile apparatus to protect endoscopes wherein the apparatus includes a self-sealing mechanism disposed within a canal and configured to allow for an endoscope to enter the canal and contact defogging material and to prevent the defogging material from spilling out of the canal, as is generally recited in independent claim 1, it cannot be maintained that Beane et al. anticipates claim 1. Moreover, because claims 2-7, 10-15 and 42 each ultimately depend from and thereby incorporate the limitations of claim 1, these dependent claims are not anticipated by Beane et al. for at least the reasons set forth for claim 1.

Claim 8 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beane et al. (U.S. Pat. Appl. Publ. No. 2002/0022762) in view of Dohm et al. (U.S. Pat. No. 5,720,391). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Dohm et al. is directed to packaging and a holder provided for a heart valve prosthesis. The holder is adapted to grasp the heart valve prosthesis and includes a post. The packaging includes a collar for holding the post of the holder. An inner tray of the packaging receives the collar such that the prosthesis is suspended within the inner tray. An outer tray receives the inner tray. An inner tray lid seals the inner tray and an outer tray lid seals the outer tray.

The Examiner apparently cites Dohm et al. for mentioning that Styrofoam can be used for a transportation case for medical instruments. However, claim 8 ultimately depends from and thereby incorporates the limitations of claim 1. It has been demonstrated above that Beane et al. contains insufficient teaching to anticipate claim 1. It therefore follows that Beane et al. also contains insufficient teaching when taken either alone or in combination with Dohm et al. to render claim 8 obvious.

Claim 9 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Beane et al. (U.S. Pat. Appl. Publ. No. 2002/0022762) in view of Lantz (U.S. Pat.

No. 6,910,582). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Lantz is directed to a shock absorbing insulated shipping container including an external corrugated cardboard box, receiving an insulated body having a cavity for holding breakable glass bottles. The bottles may contain a high value liquid product being shipped, such as medicine or wine. The container also receives an especially configured and constructed, shock-absorbing filling structure or partition system for separating the glass bottles from one another, and from one or more receptacle cavities for holding phase change coolant or temperature control material in a predetermined relationship to the glass bottles. The container also includes an insulating and cushioning cover adapted to engage into a top opening of the insulated body after the bottles and coolant are received in the cavity thereof. The insulated body is formed from injection molded polyurethane, wrapped in a plastic film.

The Examiner apparently cites Lantz for mentioning that gel can be used for a transportation case for cushioning. However, claim 9 ultimately depends from and thereby incorporates the limitations of claim 1. It has been demonstrated above that Beane et al. contains insufficient teaching to anticipate claim 1. It therefore follows that Beane et al. also contains insufficient teaching when taken either alone or in combination with Lantz to render claim 9 obvious.

In view of the foregoing, it is respectfully submitted that claims 1-15 and 42 are in condition for allowance. All issues raised by the Examiner having been addressed, an early action to that effect is earnestly solicited.

A check in the amount of \$395.00 is enclosed for covering the fee for filing the accompanying RCE for a small entity. No additional fees or deficiencies in fees are believed to be owed. However, authorization is hereby given to charge our Deposit Account No. 13-0235 in the event any such fees are owed.

Respectfully submitted,

By *Daniel G. Mackas*  
Daniel G. Mackas  
Registration No. 38,541  
Attorney for Applicant

McCORMICK, PAULDING & HUBER LLP  
CityPlace II, 185 Asylum Street  
Hartford, CT 06103-3402  
(860) 549-5290